

ADEPT
Legal Commentaries

July 2003

Parliament Activity, July 1-4, 2003

8 July 2003

On the eve of the session the leader of the "Social-Democratic Alliance" stated that the respective parliament fraction would boycott the Parliament plenary meetings, as a protest against the non-performance of the previous demands, relating to the reinstating in job positions of the persons who had collected signatures for the initiation of the republican legislative referendum on changing the election system.

Some of the analysts consider that the aggravation of relations between the opposition fraction and communist majority is determined by the complicated situation, created in the local power frames of Chisinau municipality, as the General Mayor refuses to accept the communist candidatures, and the communists, in their turn, refuse to vote for the candidates, proposed by the Electoral Bloc "Social-Liberal Alliance Our Moldova" for the positions of vice-mayors and county chiefs. The respective supposition seems to be grounded enough, taking into account that PCDP refuses to form a coalition with the representatives of the pro-Urechian Bloc and the fact that, in the majority of the districts, CPRM holds the second-level power and has managed to create post-elections coalitions with the presumed social-liberal allies, all these led to reciprocal political accusations, both at the level of territorial organizations and on part of the leaders of some centrist or left-centered parties.

In the absence of the social-democrats, the discussions in the Parliament were carried on between the representatives of CPRM and PCDP, who examined a series of important legislative draft Laws, some of them being voted for in unison.

I. Decision on Participation of the National Army military men in actions of humanitarian character in Iraq

ADEPT Comment: By the respective decision it was approved that military men, taken in the RM National Army service on a contract-basis (especially doctors, sappers and infantrymen) can participate in humanitarian actions in Iraq; with the equipment, technical facilities and individual arms from the military endowment. It was also approved that National Army transportation airships can be used to participate in the respective actions.

In this context, it can be presumed that the issue of Moldova military men detachment has been previously coordinated with the USA Military Department, responsible for the administration of Iraq and for the decisions who can be accepted to participate in respective actions. It is worth mentioning that USA much easier accepts to this process the ex-soviet and ex-socialist countries (for ex. - Poland), than UN or European developed countries representatives, this fact showing that not all of the problems with the NATO Partners have been completely overcome.

It should be noted that the Republic of Moldova would be interested to participate in humanitarian operations (though it could be quite difficult to distinguish between these operations and military ones; in which case a direct constitutional conflict could arise) not only to demonstrate the desire to contribute to the international security.

We can suppose that, as a result of the mentioned actions, Moldova National Army will be rewarded in equipment and, possibly, even financially as, usually, participation in missions of this kind, results in certain material benefits.

II. Law on Private Detecting-Security Activity

ADEPT Comment: The adopted by the Parliament Law will substitute the existing Law on non-state detecting-security activity, which was adopted as long ago as the beginning of 1994.

The new Law will take over the majority of the previous provisions, but it also contains a compartment on private guard activity. It stipulates that a security private organization (SPO) is a commercial enterprise, organized to provide services to protect life, health and property of physical and legal entities. The SPO can develop its activity only if it is registered by the State Register Chamber, has an adequate license and the authorization of the Ministry of Internal Affairs.

The Law contains separate regulations relating to physical protection of persons - body guard, and stipulates that this activity can be effectuated only on the basis of a concluded with the PGO contract in written form, in the frames of which the person in charge with this service should act.

Referring to security private organizations activities, a series of restrictions are established, these dealing with:

1. Features of the respective physical entity: Moldovan citizenship, minimal age of 21 years old; no penal antecedents; adequate certifying etc.
2. Features of the legal entity: possession of corresponding Quality and Standard Certificates; Police Authorities references; authorization of the MIA etc.

Some of the experts expressed their opinion saying that the new Law was needed for a MIA plenary control on SPO activity; the majority of restriction conditions being imposed because of the interest of MIA that this type of activity is in coordination or collaboration with the MIA bodies. This supposition is based on the well-known fact of the existing practice, when the majority of SPO founders are ex-collaborators of Force bodies and are assuring their ulterior activity and necessary legal protection still during their professional activity in the mentioned Force bodies.

On the other hand, the justice bodies plenary control on SPO activity could shutter the penetration of persons who are on bad terms with the rule of laws and who otherwise have easy access to information, to special technical equipment and even fire arms (registered as belonging to legal entities but, in reality, being in the possession of not very well-verified physical persons).

III. Law on the Amendment of the Fiscal Code

ADEPT Comment: By the respective Law, the Parliament established a series of tax facilities for enterprises with foreign capital.

So, in cases when foreign investments constitute more than USD 250 000 of the enterprise social capital, the given enterprise is exempted from the payment of 50% of income tax for a 5-year period, on the condition that 50% of the enterprise gross revenue is constituted by selling goods (services) of own production, and at least 80% of the exempted tax is invested in the enterprise development.

In cases when foreign investments constitute more than USD 1 000 000 of the enterprise social capital, the given enterprise is totally exempted from the income tax payment for a 3-year period, on the condition that at least 80% of the exempted tax is invested in the enterprise development or in state (regional) programs of national economy development.

An additional, imposed by the Law, condition is that mentioned enterprises should not have debts to the state budget and have to conclude a special Agreement with State Fiscal Inspectorate.

IV. The Decision on the Parliamentary Advocates Appointment

ADEPT Comment: The Parliament appointed two parliamentary advocates: Mr. Iurie Perevoznic (candidature proposed by the President of RM) and Mrs. Raisa Apolschii (candidature of the RM Government). At the same meeting there was rejected the proposal to renew the mandate of the parliamentary advocate Alexei Potinga, who during a 5-year period held also the position of Director of the Center of Human Rights (presently Mrs. R. Apolschii is appointed to hold the upper-mentioned position; previously she was a judge in the Court and more recently - advocate at the Chisinau Municipality Bar),

It is worth mentioning that last year the Parliament untimely dismissed the parliamentary advocate Constantin Lazar, under the pretext of his absence from job without leave.

Previously both C. Lazar and A. Potinga have made statements criticising certain actions of the Power, they also doubted the economic and social success of the country, fact that caused the discontent of the parliamentary majority.

V. The Law on the Military Force Statute, Adopted in the First Reading

ADEPT Comment: The draft Law envisages the stipulation of the entry, temporary stationing, transit and withdrawal of foreign military forces to/ from the territory of the Republic of Moldova, in conformity with the international agreements to which our country is part.

The draft envisages defining some specific notions as:

- military force;
- civil component;
- sending state;
- common activities;
- temporary admission etc.

A separate statement bans the development of any political activity by foreign military forces or their civil components on the territory of the Republic of Moldova.

Provisions are stipulated, according to which the military forces and their civil components are not submitted to the existent visa and entry-exit regimes.

The Law also contains a series of provisions relating to:

- carrying and possession of arms;
- granting the security during troops movement;
- jurisdiction competence;
- responsibility for the caused damage;
- management of military encampments;
- employment of local labor force etc.

The principal problem linked with the Law is art. 11 of the Constitution stipulating that "the Republic of Moldova does not admit the distribution of other states military troops on its territory".

An additional problem, mentioned by the representatives of the parliamentary opposition, is the presence of a contingent of foreign military troops on the Nistru left-bank territory of Moldova. The new Law could allow the legalization of the temporary admission of these troops, in case of a concluded bilateral agreement between Moldova and the Russian Federation, and this would mean a new encroachment upon the RM independency and the upper-mentioned constitutional norms.

VI. The Law on the Amendment of the Law on Energy, adopted in the first reading

ADEPT Comment: The Law draft, presented by the Ministry of Finance, envisages the financing of the state energy supervision organ from the money resources contained in the electric power tariffs.

According to the opinion of a number of deputies, this amendment could determine an additional increase of electric power tariffs; the parliamentary majority by no means would accept such a thing, as the social and political impact of this action would be severe and difficult to recoup.

VII. The Draft Law on VAT Exemption of Gas Meters

ADEPT Comment: It is proposed the VAT exemption for the gas meters, imported into the country in conformity with the Agreement on Loan, concluded with the International Bank for Reconstruction and Development.

According to the opinion of the authors, this exemption would lead to a decrease of gas meters price, meaning that they would be more accessible to the consumers. At the same time, a number of deputies expressed their opinion that the importing firms would include VAT in the price of the meters, so that the consumers would have to pay this tax, and the state budget would lose considerable sums of money.

Parliament Activity, July 7-11, 2003

15 July 2003

During the two plenary sessions of the referred period, the greatest attention was paid to the examination of a number of legislative documents, among which the Law on the Amendment of the Constitution of the Republic of Moldova and the Law on the Amendment of the State Budget for the current year. While the first document caused political discussions, the second one led to debates of economic character, as part of the deputies doubted the veracity of the prognosis, according to which the 2003 budget would be characterized by a budget excess, i.e. the budget will have a profit.

Besides the upper-mentioned documents, the Parliament examined a series of other draft laws, listed further on.

I. The Law on Innovation and Technological Transfer State Policy

ADEPT comment: By this Law a series of general notions in the domain are determined, among them the following:

Innovation - improvement of function or functionality of a product or service, making it correspond to the market requirements or even generate a new market demand;

Technological transfer - introduction in the economic circuit of specific technologies and tools, equipment and installations, resulted from the scientific research or from procurement, in view of obtaining new products, services or processes;

Innovation and technological transfer - a process of transforming the results of scientific research, of practical elaborations and other scientific-technical achievements into a new product, service, process and ulterior submitted to technological transfer and marketing process;

Innovation and technological transfer state policy - a component part of the social-economic state policy oriented to the development, coordination and stimulation of innovation and technological transfer activity through the revaluation of scientific-technical achievements.

The Law also contains provisions relating to:

1. Innovation and technological transfer (the content, objects, subjects and legal relations);
2. Regulation of innovation and technological transfer activity (mechanisms of regulation, prerogatives of the responsible public authorities, priority directions);
3. Innovation and technological transfer Programmes and Projects (state programmes, projects, ways of selection and registering of projects);
4. State support of innovation and technological transfer activity (financing resources to support programmes and projects, supporting possibilities, conditions under which state support can be carried out, provision of information in the domain etc.).

Though the draft law abounds in sophisticated and complex definitions that establish a series of rules in the domain, it is difficult to judge on the value of the new Law, as even the actions, proposed to be supported by the state - innovation and technological transfer, are very rare in the current scientific practice.

Besides, even if state support to respective activities is declared, the state support as such is not carried out by concrete measures, as the new Law does not set the way of state financial support to innovation and technological transfer activities; and the provisions relating to the peculiarities of fiscal taxes and customs fees are not established in a concrete way; instead of this, references are being made to the provisions of the Fiscal Code and Customs Law. But these legal instruments do not state essential facilities for the scientific activities of innovation and technological transfer, and the establishing of concrete facilities after the new Law coming into force; can face the lack of financial resources or some other unfavorable objective and subjective factors.

In this context, we have to mention that recently the Parliament adopted a decision, demanding that the Government should determine a set of main directions of scientific research to be supported by the state, as the

vast number of scientific spheres necessitating support, does not bring efficient results and does not permit the obtaining of an adequate output for the current national economy. So, the highest legislative organ requires the reducing of the number of state supported scientific spheres; at the same time, it adopts a new Law, the implementation of which necessitates considerable financial resources, even if it is very difficult to assure the Law efficient employment.

II. The Law on the Delegation to the Government of the Right to Issue Ordinances

ADEPT comment: By the respective Law, on the basis of the Constitution art.1062 (Legislative Delegation), the Parliament delegated the Government the right to issue Ordinances in domains other than those referring to organic laws, in the intervals between ordinary sessions of the Parliament:

- regulations relating to utilization of state reserves, with the purpose to ensure the alimentary, veterinary and phytosanitary security, for the elimination of eventual natural calamities consequences;
- regulations relating to ensure electric power security;
- regulations relating to the maintaining of public order and national security etc.

In the debates it was mentioned again the inutility and inefficiency of the adopted by the Parliament legal instruments, as during the 3-year period of the validity of this legislative delegation norm, the Government took this advantage only once, in 2000, during the governance of Alliance for Democracy and Reforms, when the Ordinance on the quantum of consular fees (still in force) and the Ordinance on the inspection before expedition (abrogated by the Parliament at the end of 2000), were issued.

It was noted that, even in the absence of a certain specific Law, the Government could take any necessary measures, as the laws in force empower it with the respective attributions.

Some experts mentioned that the inefficiency of the corresponding constitutional norm is not determined by the fact that the mentioned norm is alien to our legal system, but, first of all, by the reluctance of the Executive to solicit empowerment in important and responsible domains. In other words, the situation can be explained by the unwillingness of the Government to assume the responsibility for certain actions, currently unpopular with the parliamentary majority, but necessary for the Executive to promote some of the immediate goals and tasks.

Besides, it is interesting to remark the fact, that the Government never tried to assume responsibility for any draft Laws, explaining that the Executive and Legislative organs are collaborating in an efficient way, so that it is not necessary to use any extreme methods. Still, the respective procedure could have been used in the intricate case of the new Law on inspection before expedition; the mentioned Law being imposed by international financial organisms but not wanted by the parliamentary majority. It seemed that, instead of Law implementation, the President applied the cabinet reshuffle procedure; the public being explained that one of the causes of the Vice-prime minister, minister of economy Stefan Odagiu dismissal was the inefficiency of the carried on negotiations on the repeal of inspection before expedition. After all, the parliamentary majority had to regulate the unpopular procedure exactly in accordance with the requirements of IMF and in the form presented by the Government of those times.

III. The Law on the Ratification of Development Credit Agreement

ADEPT comment: By the respective Law the Credit Agreement, concluded between the Republic of Moldova and the National bank, in the amount exceeding USD 7.2 million, was ratified. The crediting conditions are considered to be favorable:

- a 40- year credit term;
- a 10-year grace period;
- 0% of interest rate, commission returns of 0,75% of the credited value.

The credit is directed to the financing of the Project of Trade and Transport Facilitation in the South-East of Europe, the main beneficiary of the Project being the Customs Department; it will proceed to the modernizing of the infrastructure, will implement an integrated informational system of goods control etc.

IV. The Law on the Amendment of the State Budget Law for 2003

ADEPT comment: the main effectuated amendment is the increase of the Budget revenues by an amount of more than 600 million lei, in order to establish a budget excess, amounting to 298 million lei. The main source of revenues increase will be the Moldova National Bank loan, amounting to more than 590 million lei, to be used for the reimbursement of state external debt. Namely these provisions determined some of the opposition deputies to doubt the correctness of the Government proposals, but the Ministry of Finance assured that a series of grants had already been negotiated and would permit the debt reimbursement to the MNB.

The mentioned Law also foresees that the state budget should take over the expenses (amounting to around 10 million lei) for the electric power that has been used to pump out the water for agricultural lands irrigation.

V. The Law on VAT Exemption of Gas Meters

ADEPT comment: By the respective Law the final decision was taken on the proposal on VAT exemption of gas meters, imported by "Moldovagaz" company in 1998-2000, in the frames Credit given by the International Reconstruction and Development Bank. According to some data, the stock comprises about 34 000 meters, the total estimated value of these amounting to some 19 million lei. The price of the imported then meters is by 100-150 lei higher than the current market prices and the VAT exemption will permit that gas meters to re-become competitive again.

VI. The Law on the Amendment of the Law on Oil Products Market

ADEPT comment: By the respective Law it was decided to postpone the term of compulsory installation of cash registers with fiscal memory - for November 1, 2003.

Also, the term of implementing of an automatic control system of oil products was postponed - for December 1, 2003.

In this context, it is worth mentioning that, recently, disciplinary punishments have been inflicted upon the Directors of Customs Department and Informational Technologies Department for the non-execution of the provisions relating to the implementation of a Control system on the transport means, entering the territory of the Republic of Moldova.

VII. The Law on the Amendment of the RM Constitution, Adopted in the First Reading

ADEPT comment: By this Law the introduction in the RM Constitution of certain provisions referring to the statute of Gagauz Yeri autonomous territorial unit is proposed. The following completions are suggested:

1. Introduction of the right to legislative initiative on the part of the Popular Assembly of Gagauz Yeri.
2. Introduction of a separate Article relating to the statute of autonomous territorial units.
3. Introduction of a separate Article relating to the statute of Gagauz Yeri autonomous territorial unit, containing stipulations referring to:
 - Statute characteristics: the form of self-determination, an integrated part of the Republic of Moldova competent to solve problems of its development;
 - the method of forming the Gagauz Yeri budget;
 - the maintaining in the exclusive property of the Republic of Moldova the land, earth depths, waters, vegetable and animal kingdoms of the Gagauz Yeri territory;
 - the establishing of a special statute for the Law on the special legal statute of Gagauz Yeri, so that its amendments could be possible only with the vote of three fifths of the total number of elected deputies.

In the debates there was mentioned the importance of this Law adoption, as well as the necessity to amend some of the Law provisions in order to exclude certain stipulations that could affect the content of the Constitution, in general, and especially, those provisions that could decrease the state sovereignty content.

VIII. The Law on the Declaration of Joint-Stock "Cricova" Integrated Wine Plant an Object of Cultural National Patrimony, Adopted in the First Reading

ADEPT comment: By the respective Law it is proposed to attribute to the Cricova Integrated Wine Plant the statute of a cultural national patrimony object. It is also proposed that the National wine collection, wine repository, vineyards and orchards, belonging to the Cricova wine plant, to be included in the respective Complex.

The Law also stipulates a special management regime, a town-planning arrangement of the plant territory and a special system of exercising property rights for the mentioned Complex.

Of great interest are the Law provisions relating to the peculiarities and restrictions on the use of the "Cricova" geographical name, being stipulated that the mentioned Integrated Wine Plant has the right to use the given denomination in the name of the firm, in brands and in denominations of industrial property objects. Any physical or legal entity with the domicile (premises) in Cricova, that would like to use the geographical name "Cricova" for the identification of own manufactured articles, will be able to do that only on the basis of the Parliament authorization, issued in coordination with the Integrated Wine Plant. For lack of the authorization, all those who currently use this denomination, are bound to modify their denomination or the denomination of manufactured articles, in a 5-year term.

Namely these provisions could cause the discontent of some business representatives, producers of alcoholic drinks, who currently use the word "Cricova" in their products' denomination.

Activity of Parliament during 14-18 July 2003

22 July 2003

As a rule, the laws adopted in emergency regime at the end of winter and summer sessions are flawed and are later disputed in the Constitutional Court. This time too it seems that certain adopted laws could be regarded as imperfect, and a few of the many drafts examined by the deputies during the sessions covered here are likely to prove troublesome in the near future.

I. Law on the Normative Acts of the Government and Other Public Authorities

ADEPT comment: The adopted law is intended to establish the rules of proposing, drafting, examining, expertise, editing and issuing of normative acts subordinate to laws, except for individual and political acts as well as those that do not include legal norms. A series of principles is to guide the drafting of normative acts, such as coherence and subordination to laws, succession and balance of regulations, scientific foundation, transparency, publicity and accessibility etc.

Among the conditions that a normative act is to meet are the following: correlation with the superior juridical act, defence of legitimate rights, freedoms and interests of physical and legal entities, respect for the requirements of the legislative technique and the norms of literary language.

According to the law, the normative acts will be hierarchically organised into: Government decrees and decisions, normative acts of the central public administration, normative acts of the territorial autonomous units with special status, normative acts of the first and second tier local public administration authorities.

A special chapter in the law is dedicated to the application of normative acts in the time and space and on the people concerned. Thus, it is stipulated that the normative act is to apply onto all individuals residing on the territory of the state (territorial administrative entity) for a limitless period of time (if the text of the act does not provide otherwise) and with no retroactive affect (it will not have legal binding on past events).

The effect of the normative act will terminate when it is abrogated or declared null through a final court decision, expires, is consumed or has become inapplicable.

The law also includes provisions with regard to the procedure of proposing and drafting normative acts, the method of preparing drafts, the technical, organisational and financial support for the process of drafting, the definition of concepts and notions, the argumentation of the draft, the juridical expertise and co-ordination with interested bodies, the Centre for Legislative Creation and the Justice Ministry, the file of the draft normative act etc.

The general objective of the law is to introduce clear regulations on the procedure of proposing and drafting normative acts to ensure maximum transparency and prevent the promotion of lobby or departmental interests which do not meet the general interests of the society.

At the end of 2001, the Parliament adopted the Law on Legislative Acts, which had the same objectives and tasks. However, an analysis of the process of law drafting over the past year does not reveal a considerable improvement; it is still a far from transparent process and there are often insufficient arguments for the drafts. This can be explained to a great extent by the fact that the parliamentary majority has to accept the drafts submitted by the Government as they are part of the policy promoted by the majority and the economic, social, environmental and other kind of expertise are not always carried out since they might come out unfavourable for the said drafts. On the other hand, the deputies submit and promote draft laws that do not correspond to the above norms because they do not have the skills and knowledge to carry out all required expertise and arguments established via laws.

II. The Code of Railway Transports

ADEPT comment: Compared to the debates in the first reading, upon the final approval of the Code the debates were more than heated. The deputies presented a number of proposals on improving the text, as well as amendments to abolish the provisions likely to affect the rights of citizens or result into additional costs for the travellers.

In particular, the most heated debates were caused by the requirement banning the access to the departure area of people other than the ticket holders. On the basis of a series of economic, juridical and even moral arguments, this provision was excluded from the draft, to the disappointment of the authors.

Another important provision that was introduced is one providing for the patrimony of enterprises and organisations involved in railway transports to be public property.

The adoption of an organic law in the field of railway transports is timely and welcome given that at present the field functions according to a regulation adopted several dozens of years ago and which is inapplicable under the current market conditions even if the enterprise retains its public enterprise status.

Likewise, the lack of clear regulations has created leeway for abuses by the bosses of railway transports and satellite enterprises have been created over the years harnessing considerable revenues that should normally belong to the state.

III. Law on the Declaration of the Winemaking Factory in Cricova as National Cultural Patrimony

ADEPT comment: The main objective of this law is to protect the site and remove it from the list of enterprises liable for privatisation. On the other hand, the international financial bodies have requested the inclusion of the factory in the list of enterprises to be privatised as one of the conditions for resuming foreign funding to Moldova. Until the adoption of the law no information has been published that the IMF and the WB have given up this condition.

The adoption of this law without preliminarily consulting the foreign funders can be explained in a number of ways:

- the rulers are certain that the funding will not be resumed anyway (but then it is not clear why they did adopt and promulgate the Law on Inspection before Expedition);
- the rulers hope that they will persuade the crediting bodies that the Cricova factory needs to be declared a site of national cultural patrimony and protected as such (although earlier the World Bank had made public its position on this issue and dismissed the Government's arguments as not convincing enough);
- the rulers hope that on the eve of the vacation time this decision will go unnoticed and in the autumn, when the IMF is to examine the resumption of funding to Moldova, the issue of Moldova's relations with the WB will not be considered (this last supposition seems to be the most credible one, but it could also be the most truthful one).

IV. Law on the Ratification of the European Convention on the Recognition and Execution of Decisions on the Surveillance of Children

ADEPT comment: This Convention was concluded by the Council of Europe Member States in 1980 and is intended to ensure the protection of surveillance and assistance in re-establishing state assistance to parentless children.

V. Law on Amending the Law on the National Commission on Mobile Assets

ADEPT comment: According to the amendments, the Commission will be fully funded from extra-budgetary means, formed from a series of taxes and payments, such as:

- 0.5 of the amount of mobile asset issues;
- 0.5 of the amount of sale-purchase transactions with mobile assets on the market outside the stock exchange;

- 0.1 of the value of auction transactions on the stock exchange market;
- fees for authorisations, certifications, approvals, registration and permits issues by the Commission;
- fees for licences issued by the Commission etc.

It is envisioned that the Commission budget will be approved by the Parliament, following the preliminary approval by the relevant permanent commission.

VI. Draft Law on the Evaluation and Accreditation of Units of Research and Development, adopted in the first reading

ADEPT comment: The draft proposes to stimulate the research and development activities and the ones that increase scientific and technological competitiveness. A research and development unit is defined as any institute, centre, scientific laboratory or other entity specified as institution of research and development.

The evaluation criteria will consist in assessing the correspondence between the priority directions of research and development and the contribution of the respective institution to the national economy.

Allegedly, after a period of five years of the adoption of this law, only the accredited research and development institutions will be eligible for state subsidies and other facilities.

One provision likely to cause problems is the one whereby the activity of the accreditation commission and of its secretariat is to be financed from the means transferred by the research and development institutions subject to accreditation (the state ones - from the state budget, the private ones - from their own sources). It is difficult to say which will be the costs of accreditation and certification. What is sure, though, is that the private institutions will protest against the requirement to pay additional fees, since they believe that the state is the one that has to cover the expenses related to the measures that it itself proposes and carries out.

Earlier, the Parliament adopted a decision which obliged the executive to determine the scientific domains that are to be supported by the state and the new draft law fits the state policy in the scientific field, which is to reduce the funding to those scientific institutions that do not have an essential contribution to the economic development and do not have tangible outputs. On the other hand, reducing the funding to fields that do not deliver tangible outputs could result in their disappearance in the long term.

VII. Draft Law on Cancelling the Debts of Theatre and Concert Institutions

ADEPT comment: The draft proposes to cancel the payments to the budget, penalties and financial sanctions that are to be paid by a number of theatre and concert institutions subordinated to the Ministry of Culture, such as the Chisinau Circus, the National Theatre of Opera and Ballet, the National Philharmonics etc.

The total amount of exemptions is estimated at 3.5 million lei and they will allow the exempted institutions to carry out their activity without running the risk of being suspended for failure to pay off debts. On the other hand, the respective institutions have considerable debts towards a series of service providers (for electricity, water, sewerage etc.), that are not as tolerant as the state, and therefore the theatre and concert institutions have yet to cope with their financial problems.

Most of these institutions have rented out parts of their premises and they could use these revenues for paying their bills. Otherwise, one can assume that the relations between these institutions and their rentees are not fair and in the interest of the state, which still has to make a lot of concessions.

VIII. Draft Law on the Amendment of the Law on the Status of the Local Elected Officers, adopted in the first reading

ADEPT comment: The draft is intended to bring the said law in line with the new Law on Local Public Administration. In particular, the amendments envisage changing the definition of the local elected officer, the incompatibilities and restrictions in exercising the mandate of local elected officers, the procedure of control of legality of the acts of the local public administration etc. A series of provisions refer to the social guarantees to be provided to former mayors and local elected officer who held leadership posts in county councils and district executive committees.

Parliament Activity during 21-25 July 2003

28 July 2003

As has been mentioned earlier, at the end of sessions, the activity of the Parliament intensifies and the deputies examine draft laws according to the priorities set by the Government as well as their own priorities.

Last week witnessed a number of important political events, including the resumption of talks within the Joint Constitutional Commission, the organisation of a seminar on the new constitution of the to-be Moldovan federal state, the holding of a meeting between the Moldovan ambassadors world-wide and the top Moldovan leadership etc.

Of special attention were the debates on the OSCE Dutch Chairman's initiative to request the EU to consider sending its peace keeping forces to Moldova. While earlier the Moldovan authorities had had no reaction to this initiative, the statements made within the Parliament session by opposition deputies and, more importantly, the telephone conversation that the Moldovan President had with its Russian counterpart prompted an official stand on the issue. Thus, the Foreign Affairs Ministry and the representatives of the majority faction in the Parliament have qualified the initiative as one which is not official and unlikely to succeed. Moreover, it was mentioned that there is no need for additional peacekeeping forces since the Russian troops currently deployed in Transdnistria are highly successful in fulfilling their peacekeeping tasks.

The most interesting thing has been that the President has not come forward openly on the subject. However, he requested that the drafting of the Conception of European Integration of Moldova be speeded up. Differently put, on the one hand, concrete EU proposals are being rejected, while, on the other hand, statements on Moldova's firm commitment to integrate into the EU abound. Underlying such behaviour is probably Moldovan officials' assumption that Europe stretches up to the Ural Mountains; no one really knows what the upcoming Conception on European Integration will be about since there has been no public debate about it, as one would have normally expected to happen in an open society.

Instead, in order to draw the attention of the public opinion away from the real issues haunting our society, to which the current government seems to invariably have no clues, the authorities keep launching new mega-initiatives, which they widely advertise and which are supposed to demonstrate their "readiness to co-operate with the civil society". Thus, during the Civic Forum held on 25 July 2003 the Moldovan President announced that a new Conception of State National Policy of Moldova had been drafted and submitted to Parliament for examination and to the wider public for debates. It is worth reminding that last year, by the end of summer, the President submitted to the Parliament a draft law on the public control over the state institutions. Despite the wide publicity, the draft was never adopted by the Parliament.

Thus, despite the fact that the opinion polls show clearly that at the moment the issue of ethnic relations does not feature high in our society (the current government has created adequate conditions for the cohabitation of the representatives of all nationalities), the issue is brought back to the foreground. In this sense, one cannot help notice the concomitance of the Civic Forum, the drafting of the National Conception and the publication of a Moldovan-Romanian Dictionary. For these reasons, one can assume that new protests are to be expected from the opposition soon, whereas the economic and political failures will then be blamed onto the "destructive forces" that fail to understand that an integrated history and a state national policy are meant to build social concord.

I. Notably, during the period of this comment the Parliament introduced a few changes that are likely to break the fragile balance achieved in the government-opposition relations. On 25 July the Constitution was amended to constitutionalise the status of the Gagauz Yeri autonomy as well as the rights of the Gagauz authorities. This way the deputies of the parliamentary majority kept their electoral promises to the autonomy and put into the practice the much criticised agreement signed by the Communist Party Chairman, President Voronin, with the Gagauz officials during the 2001 parliamentary campaign.

ADEPT Comment: The following amendments have been made to the Constitution:

1. The Gagauz People's Assembly is granted the right to legislative initiative along with the Moldovan Parliament, Government and President.

2. The Gagauz autonomy is specifically consecrated in Article 111, whereby:

- a. Gagauz Yeri will be a territorial autonomous entity with special status, which is intended as a form of self-determination for the Gagauz minority, but nonetheless remain an integral and inalienable part of Moldova. The autonomy will deal with its political, economic and cultural life according to the Constitution of Moldova.
- b. The land, underground, waters and other natural resources located on the soil of the autonomy are the property of Moldova and constitute the economic basis of Gagauz Yeri.
- c. The control over the respect of Moldovan laws in the region will be carried out by the Moldovan Government.
- d. The organic law that regulates the special status of Gagauz Yeri will be amended upon the vote of 3/5 of the deputies in the Moldovan Parliament.

Practically, the adopted amendments have introduced into the Moldovan Constitution a series of provisions taken over from the Law on the Special Juridical Status of Gagauz Yeri, adopted by the Moldovan, agrarian dominated party in late 1994.

II. Law on National Defence

ADEPT Comment: The adopted law sets the structure of the national defence system, the attributions and responsibilities of public authorities on defence, as well as the organisation, destination and leadership of the national defence system.

Such notions are defined: the national defence system, military aggression, military operation etc. It is envisioned that the organisation of the national defence will include determining the defence principles, adopting the military doctrine, developing the military art and science, determining the national interests, preparation of defence forces, improving military training, preparing the military reserve, preparing the citizens for the defence of their motherland etc.

The structure of the national defence system will include:

- command by the constitutional authorities of the state (Parliament, President, Government, Defence Ministry etc.);
- the armed forces, the resources and territorial infrastructure.

The law provides a detailed reference to the competence and attributions of every authority involved in the command of the national defence, as well as the methods of interaction among the officials who are indirectly related to the command and organisation of the national defence (SIS, MAI, SPPS etc.).

On 26 July 2003, the Parliament adopted the Conception of the Military Reform of Moldova, and between July 2002 - July 2003 a number of laws related to the military reform were adopted:

- on the material responsibility of the military;
- on the procurement of assets and provision of services of public interest;
- on the preparation of citizens for the defence of motherland;
- on the reserve of armed force;
- on preparation for mobilisation and mobilisation etc.

III. Law on Introducing a Safeguard Tax on Sugar Imports

ADEPT Comment: This law provides that starting 1 August 2003, in addition to the current customs taxes, the sugar importers will have to pay a compulsory exceptional tax worth 40% of the value of imported sugar, but not less than 100 Euro per 12 tons of sugar. The reason this new tax has been introduced is the high cost of sugar produced in Moldova, which is about 50% higher than the cost of imported sugar and hence is not poorly commercialised due to the availability on the market of sugar imported at dumping prices.

This tax will be provisional, and will be applied for 200 days of the entry into force of the law. Upon the expiration of this term, the authorities will re-consider the issue and decide on further action.

It is thus for the first time since the Law on Antidumping, Compensatory and Safeguarding Measures has been in force that the Parliament has decided to apply a measure of economic protection of the local sugar producers.

It should be mentioned that the above law stipulates for protection measures that could be applied on imports at dumping prices, subsidised in the country of origin or that of export, as well as on imports that, due to their quantity or delivery conditions, damage the local producers of similar profile, are too competitive or are likely to cause some other sort of damage.

IV. Law on Amending the Law on the National Bank of Moldova (NBM)

ADEPT Comment: through this law, at the proposal of the Executive Board of the NBM, the Parliament has increased the capital of the NBM to 200 million lei. According to the Law on the NBM, its entire capital should belong to the state and it cannot be transferred or assigned for certain tasks.

Article 19 (3) provides that in the event that the value of the active assets held by the bank diminishes in relation to the value of its passive assets and its current capital, the Finance Minister will transfer to the NBM, within 60 days of the publication of the balance, a Government capital contribution in the form of bonds of negotiable value, at the market interest rate, and in such amount as to cover the deficit.

V. Decisions on Cuts in the National Army Personnel and the Staff of the Security and Information Service (SIS)

ADEPT Comment: The Parliament has decided to cut the military troops and the civilian staff of the National Army and of the institutions of the Ministry of Defence by 400 militaries and 100 civilian employees.

The personnel of the SIS have reduced by 200. The Decision of the Parliament does not refer to specific individuals, since the respective cuts had been made earlier, upon the reorganisation of the SIS.

VI. Decisions on the System of Prosecution Bodies

ADEPT Comment: the Parliament adopted a number of decisions, whereby:

1. Anatol Plamadeala, First Deputy Assistant to the General Prosecutor, was released of his duties. During the debates, neither the request of the General Prosecutor nor the reasons for Plamadeala's dismissal were voiced. Although Plamadeala had held the post for a brief period of time, he distinguished himself through his professional quality.
2. The new structure of the prosecution bodies was approved, in accordance with the new territorial administrative organisation of the country. The sector prosecutor offices are now called district offices, as they were called before 1998.

The amendments also provide for the abolishment of the appeals prosecutor offices, which thing might cause certain problems upon the examination of cases in higher level courts. According to the Code of Civil Procedure, the prosecutor who opens a case has to attend all stages of examination of that case, including in the superior courts. Apart from the technical and material problems, this will be difficult to achieve due to the lack of experience and skills of the junior employees in prosecution offices, who might lack the competence to uphold the case in courts of appeal or in the Supreme Court of Justice. Notably, representatives of prosecution bodies warned about this. However, the parliamentary majority denied their proposals and went forward with the reform of the prosecution bodies regardless of the opinion of these bodies' representatives. The Parliament adopted in the final reading the [Law on Exempting from Taxes the Theatre and Concert Enterprises](#).

In the first reading, a draft law was adopted that provides for the method of remuneration of state notaries (20% of collected income, but not less than an average wage) and of the personnel of state notary offices (according to the laws on public service).

